

Claims 9-23 were rejected under 35 USC 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the claimed invention.

This rejection is traversed as a matter of law because it is contrary to the explicit statement of M.P.E.P. 608.01(1):

“In establishing a disclosure, applicant may rely not only on the description and drawing as filed, but also on the original claims if their content justifies it. ... The claim should not be attacked either by objection or rejection because this subject matter is lacking in the drawing and description. It is the drawing and description that are defective, not the claim.”

The specification has been amended to provide the necessary support for originally filed Claims 9 and 17.

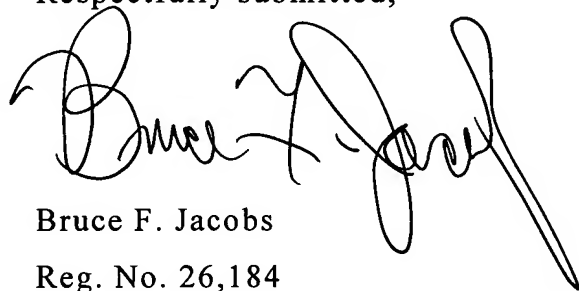
Applicant apologizes for the confusion, but during the drafting of the patent application, the original wording “movable side wedge” of Claims 1-8 proposed by the inventor to refer to both the wedge-shaped sections rearward of the ball of the foot as well as those elements extending substantially the entire length of the shoe was changed for purposes of accuracy to specify an entire shim member 30 and two of its elements, the side wedge sections 30a and 30b.

The shim member structure language of Claims 9-23 -- “shim member having a toe portion, a heel portion, a mid-portion there-between and comprising a wedge, wherein the wedge is joined at the toe portion and the heel portion and has a central hinge area therebetween, and having a flat upper surface and a lower surface which has a transversely wedged contour at about the mid-portions of the shim facing downward, thereby matching and fitting together with the footbed assembly located

therebelow, and having the shim mid-portion being narrower than the corresponding footbed assembly mid-portion location” -- is both part of the original disclosure and as shown in the figures.

In view of the foregoing amendments to the specification and the lack of any prior art rejection of Claims 9-23, an early Notice of Allowance is respectfully requested for each of these claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce F. Jacobs", with a long, sweeping flourish extending from the end of the signature.

Bruce F. Jacobs

Reg. No. 26,184